

# **BY-LAWS OF THE NATIONAL ASSESSMENT GOVERNING BOARD**

## **ARTICLE I - NAME AND AUTHORITY**

The name of the Board is the National Assessment Governing Board. It will be referred to herein as "The Board." The Board is authorized by Section 302 of the National Assessment of Educational Progress Authorization Act (P.L. 107-279), enacted November 5, 2002.

## **ARTICLE II - BOARD MEMBERSHIP**

The Board consists of 26 members appointed by the Secretary of Education, comprised as follows:

1. two Governors, or former Governors, who are not members of the same political party;
2. two State Legislators, who are not members of the same political party;
3. two chief state school officers;
4. one superintendent of a local educational agency;
5. one member of a State board of education;
6. one member of a local board of education;
7. three classroom teachers representing the grade levels at which the NAEP is conducted;
8. one representative of business or industry;
9. two curriculum specialists;
10. three testing and measurement experts;
11. one non-public school administrator or policymaker;
12. two school principals, one from the elementary level, the other from the secondary level;
13. two parents who are not employed by a local, state, or federal educational agency;
14. two additional members who are representatives of the general public, but who are not employed by a local, state, or federal educational agency; and

15. the Director, Institute of Education Sciences, who serves as an ex-officio, non-voting member.

### **ARTICLE III - PURPOSES AND FUNCTIONS**

The Board is responsible for formulating policy guidelines for the National Assessment, and for the following functions:

(A) Program Responsibilities. The Board shall:

- (1) select subject areas to be assessed consistent with Section 303 (b) of the Act;
- (2) develop appropriate student performance levels as provided in Section 303 (e);
- (3) develop assessment objectives;
- (4) develop test specifications;
- (5) develop a process for review of the assessment;
- (6) consistent with section 303, measure student academic achievement in grades 4, 8, and 12;
- (7) design the methodology of the NAEP in consultation with appropriate technical experts;
- (8) develop guidelines for reporting and disseminating results;
- (9) develop standards and procedures for interstate, regional, and national comparisons;
- (10) take appropriate actions needed to improve the form, content, use, and reporting of NAEP results;
- (11) plan and execute the initial public release of National Assessment of Educational Progress reports. The National Assessment of Educational Progress data shall not be released prior to the release of reports as described in this subparagraph.
- (12) In carrying out the preceding eleven responsibilities, the Board may seek technical advice from the Commissioner for Education Statistics and other experts;
- (13) ensure that all items selected are free from racial, cultural, gender, or regional bias and are secular, neutral, and non-ideological;
- (14) advise the Commissioner for Education Statistics on the conduct of NAEP;

- (15) have final authority on the appropriateness of all assessment items, both cognitive and background questions;
- (16) report within 90 days on recommendations made in the evaluation of student performance levels;
- (17) make decisions regarding complaints about the National Assessment of Educational Progress;
- (18) ensure with the Secretary that the membership of the Board at all times reflects regional, racial, gender, and cultural balance and diversity.

#### (B) Administrative Responsibilities

- (1) Section 302(f)(1) of the NAEP legislation states that in the exercise of its responsibilities, the Board ... "shall be independent of the Secretary and the other offices and officers of the Department."

In order to carry out this requirement, the Governing Board and the Secretary of Education entered into a Memorandum of Understanding (MOU) effective March 6, 1992. Further, on March 6, 1992 and on July 13, 1992, the Secretary delegated specific authorities to the Board to implement the provisions of the MOU.

- (2) The MOU and associated delegations of authority are incorporated herein by reference. The delegations empower the Board to perform the following functions:
  - selecting, appointing, supervising, evaluating and setting compensation for personnel;
  - contracting;
  - publishing Federal Register and FedBizOpps (Federal Business Opportunities) notices;
  - reviewing and approving speeches, articles, reports and other documents prepared by the Governing Board and its staff;
  - obligating funds allocated and allotted to the Board;
  - soliciting and disposing of gifts;
  - implementing conflict of interest waiver authority;

- determining that Board meetings may be closed, meetings may be held outside the Washington, D.C. area, and business may be conducted by telephone conference call.

#### **ARTICLE IV - OFFICERS AND COMMITTEES**

The Secretary appoints all members of the Board, for terms not to exceed four years, and may reappoint Board members to a second term. Nominations are sought from organizations representing the categories of Board membership. For each vacancy, at least 6 individuals are nominated for the Secretary's consideration who, by reason of experience or training, are qualified for the particular Board vacancy.

The membership of the Board reflects regional, racial, gender, and cultural balance and diversity, and the Board exercises its independent judgment free from inappropriate influences and special interests.

**Terms of Office:** Each member of the Board appointed to fill a vacancy shall serve for a term not to exceed four years and terms shall be staggered, as determined by the Secretary. Members may serve not more than two terms. If an appointed Board member ceases to be a member of the group that member was appointed to represent, the Board member may continue to serve as a member until the expiration of the Board member's term. If a Board member ceases to serve before the expiration of the term, through resignation or other cause, the vacancy may be filled either for the remainder of the term or for a new term not to exceed four years.

**Committee Structure:** The Board establishes committees composed exclusively of members of the Board.

#### **ARTICLE V - OFFICERS**

1. Each year, the Secretary of Education appoints the Chair of the National Assessment Governing Board for a term beginning on October 1 and ending the following September 30. Each year, the Board selects its Vice Chair for a term beginning on October 1 and ending the following September 30. The Chair and the Vice Chair are chosen from among the appointed members of the Governing Board.

2. The Chair shall preside over meetings of the Board. In the Chair's absence, the Vice Chair shall preside, subject to the provisions of Article VI below

The Chair shall designate, subject to the provisions of Article VII below, the membership and Chair and Vice Chair of the Board's committees.

3. When the Chair is unable to be present at a meeting of the Board, the Vice Chair shall preside over that meeting; however, the agenda of that meeting shall be approved in the manner prescribed below in Article VII (2) (a).

4. The Vice Chair shall perform such duties as may be delegated or prescribed by the Chair and shall work closely with the Chair during his/her term of office.

The Vice Chair shall perform the duties of the Chair whenever the Chair is unable to perform them, by reason of illness, absence, or other disability.

5. The Chair and Vice Chair shall be ex-officio members of all committees without vote. Each may also serve as a regular voting member of ad hoc committees and of one Board standing committee (in addition to the Executive Committee and the Nominations Committee).

## **ARTICLE VI - MEETINGS**

1. The Board meets not less than four times each year on a regular schedule as adopted by the Board, or at the call of the Chair. Committees meet as required at the call of their Chair. Meetings are open to the public except as determined in advance by the Executive Director, with the concurrence of the Office of General Counsel. Notice of each Board meeting shall be published in the Federal Register. Meetings are conducted and records of proceedings kept, as required by applicable laws and regulations.
2. A quorum of the Board consists of a majority of its members. Except as provided in Article VIII, voting by proxy shall not be allowed.
3. The Board and its committees will from time-to-time have meetings in various parts of the country to facilitate participation and attendance of the public in Board meetings.
4. Members absent from two consecutive, regularly scheduled meetings of the full Board shall be notified by the Chair that their lack of attendance may lead to their removal from the Board.

The Board will consider the absence of any member from three consecutive, regularly scheduled meetings of the full Board, cause to recommend that the Secretary remove such member.

5. A Board member who is a Governor may, after consultation with the Chair or Vice Chair, send a non-voting representative to attend meetings of the full Board or its committees to provide the views of the Governor and to report to the Governor on the discussions and decisions of the Governing Board. (This does not alter the attendance policy of Section 4 above.) Such non-voting representatives may attend all sessions of the Board, or committee of which the Governor is a member, and sit at the Board or committee table to be recognized and address the Board or committee when appropriate. With the approval of the Executive Director, or in his/her absence, the Deputy Executive Director, the travel expenses of the non-voting

representative may be arranged by the Board in accordance with applicable law and regulation for invitational travel.

6. A member wishing an additional individual to attend a Board or committee meeting at Board expense must obtain advance approval from the Executive Director or, in his/her absence, the Deputy Executive Director. As an example, paying such expenses would be appropriate when a Board member is disabled and requires the assistance of a companion as an accommodation to facilitate attendance at Board or committee meetings; the payment of such expenses shall be consistent with federal law and regulation.
7. Committees and the full Board may meet by teleconference or may conduct meetings via the Internet.

## **ARTICLE VII - COMMITTEES**

1. Board members shall serve on at least one standing committee.
2. There shall be established the following standing committees:
  - a. Executive Committee

The Executive Committee shall consist of the Chair, Vice Chair, immediate past Chair (if still a member of the Board), and the Chair and Vice Chair of each standing committee, and such additional members as the Board Chair may appoint with the consent of the Board.

The Executive Committee recommends and approves agenda items for the Board meetings. However, final approval of the agenda rests with the full Board; such approval shall be obtained by or at the beginning of the initial plenary session of each meeting of the Board. Permanent responsibilities of the committee include:

- recommending the initial appointment of excepted service staff for consideration by the full Board;
- supervising, through the Executive Director, the Board staff;
- monitoring of the NAEP budget, the Board's budget, and fiscal matters;
- recommending the selection of subject areas to be assessed, for consideration by the full Board;
- identifying steps by which the Board can carry out its responsibility to improve the "form and use" of NAEP;

- overseeing the handling of complaints submitted to the Board by the public;
- periodically reviewing the Governing Board Bylaws and recommending amendments to the Governing Board as appropriate;
- annually nominating a Board member to serve as Governing Board Vice Chair, for consideration by the full Board

b. Assessment Development Committee

This committee shall be responsible for assessment development activities in the following NAEP subject areas: reading, writing, mathematics, science, U.S. history, geography, civics, the arts, foreign language, economics, world history, and other subjects and areas approved by the Governing Board. Membership on the committee may be supplemented by the Ad Hoc appointment of Board members having a particular interest in, or expertise concerning a particular subject area. This committee shall be responsible for: (1) developing and implementing a broadly inclusive process for framework and specifications development; (2) developing content objectives for each NAEP subject; (3) ensuring the active participation of teachers, curriculum specialists, local school administrators, parents, and concerned members of the public in the framework development process; (4) developing assessment and exercise specifications for each NAEP subject; (5) reviewing subject-specific background questions and all cognitive test items for appropriateness and freedom from bias, and ensuring that they are secular, neutral and non-ideological; and (6) providing for review of test frameworks and specifications.

c. Committee on Standards, Design, and Methodology

This committee shall be responsible for recommending to the Board policies related to all technical aspects of NAEP, for developing the achievement levels, and for recommending to the Board the achievement levels for adoption for each grade and subject in the National Assessment. The areas this committee shall address include but are not limited to: (1) technical issues dealing with NAEP assessments; (2) overall issues related to the design, methodology, and structure of NAEP assessments; (3) maintaining the integrity of trend lines while encouraging reasonable experimentation and trials of new approaches; (4) maximizing utility of NAEP data; (5) receiving and reviewing NAEP evaluation and validity studies; and (6) developing a process for review of the technical quality of the assessment.

d. Reporting and Dissemination Committee

This committee shall: (1) determine the form and format for NAEP reports; (2) design policies and protocols for the fair, timely and accurate reporting and dissemination of NAEP data; (3) monitor implementation of Board policies for reporting of data; (4) take steps to maximize utility of NAEP data; (5) have primary responsibility for developing policy on background data and reviewing background questions; (6) plan and execute the initial public release of NAEP reports; and (7) develop policy for, plan, and oversee public communication and outreach activities.

e. Nominations Committee

This committee shall be comprised of a Chair plus additional members appointed by the Governing Board Chair. It shall be the committee's responsibility to solicit, screen, and make recommendations to the Board for candidates to serve on the Board as vacancies occur—for submission to and consideration by the Secretary of Education—and to assist the Secretary to "...ensure that the membership of the Board reflects regional, racial, gender, and cultural balance and diversity..."

3. Ad Hoc committees may be established by the Chair as needed, with the advice of the Board.
4. The quorum for committees shall be a majority of committee members.
5. All committee actions intended to represent Board decisions must be approved by the full Board. Committees may act for the Board only when specifically authorized in advance.

Exceptions:

(a) The Executive Committee may act on behalf of the Board in emergency situations requiring immediate action, as determined by the Chair, in consultation with the Vice Chair.

(b) With respect to panels of the Governing Board appointed by the Chair to consider complaints about the National Assessment submitted to the Board, the Chair, in consultation with the Executive Committee, is authorized, on a case-by-case basis, to delegate the authority to the panel to act on behalf of the Board in deciding the final disposition of a complaint.



## **ARTICLE VIII - AMENDMENTS**

The Board may amend these By-laws in the following manner:

1. Any member may submit a suggested amendment to the full Board at a regular quarterly meeting, to be acted upon at the next full meeting of the Board. A vote in the affirmative by a majority of the full Board membership is required for adoption of such amendments. Members not in attendance may submit their votes, in writing, to the Board Chair prior to the meeting.

- or -

2. An amendment may be approved by an extraordinary two-thirds vote of the full Board membership at a single meeting of the Board, when the Board Chair determines, in consultation with the Vice Chair, that such action is necessary. When such an amendment is proposed in advance of the Board meeting, all members shall be notified and provided with the text of and rationale for the amendment, to afford members who will not be in attendance an opportunity to comment on the proposed amendment and submit their votes, in writing, to the Board Chair prior to the meeting.

- or -

3. Pursuant to Article VII (2(a), the Executive Committee may propose one or more amendments to the full Board at a regular quarterly meeting, to be acted upon at the next full meeting of the Board. A vote in the affirmative by a majority of the full Board membership is required for adoption of such amendments. Members not in attendance may submit their votes, in writing, to the Board Chair prior to the meeting.

## **ARTICLE IX - PARLIAMENTARY AUTHORITY**

The procedures for the conduct of the meetings of the Board and its committees shall be ROBERT'S RULES OF ORDER, NEWLY REVISED.

Approved: December 9, 1989, Austin, Texas  
Amended: 10/1/90  
Amended: 8/6/93  
Amended: 11/18/94  
Amended: 8/5/2000  
Amended: 5/18/2002  
Amended: 11/19/2005  
Amended: 11/20/2010